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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,962	07/08/2003	Vernon D. Karman	4767-00016	8836

26753 7590 10/25/2004

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EXAMINER

KIM, EUGENE LEE

ART UNIT PAPER NUMBER

3721

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/614,962	KARMAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Eugene L Kim	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 15,21-33,35-37,47-52,54,57 and 59-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15, 21, 25-27 is/are allowed.
- 6) ☒ Claim(s) 22-24, 28-33, 35-37, 47-52, 54, 57, 59-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. Claims 28-33, 35-37, 47-52, 54, 57, 59-63 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keyes in view of McGowan, Jr as discussed in paragraph 4 of the last office action. As discussed previously, McGowan, Jr shows ports 420, 428 and the shows using steam and sterilizing gas sequentially or simultaneously, different modes of medium would be entirely obvious based upon the users preferences. The actual port that is providing the medium or venting is merely a matter of rearrangement of parts and within the realm of one of ordinary skill in the art. See in re Japikse, 86 USPQ 70 (CCPA 1950). Regarding the flow of the medium, the flow of the medium in McGowan is going to inherently going over the product to ends longitudinally along the product. Regarding removing excess moisture from the surface, this is read on the vacuum mean as shown in figure 4C, 4D which will inherently remove the excess film moisture with the vacuum means. The gas medium will also inherently remove any excess moisture as the pasteurizing medium is being displaced over the product. Regarding the closing the chamber limitation, McGowan, Jr discloses that the steam and sterilizing gas may occurred in a sealed area (col 4 lines 50+). The housing is closed after there is a sufficient amount of gas and steam. The housing are then degassed/depressurized. Eventually the housing will be opened for subsequent use.
2. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keys in view of Colombo (#6,269,946). Keys substantially show the claimed subject matter but does not show the venting the pasteurizing medium at a distal end. Colombo

shows the concept of venting a medium out of a distal end 530. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Keys with a distal end venting means as taught by Colombo to provide for an exit venting means without the use of vacuum means. Regarding the alternating flow as claimed, this is merely a matter of design choice and solves no stated problem and is entirely obvious as a matter of engineering design choice within the skill of the art. See *in re Kuhle*, 188 USPQ 7 (CCPA 1975)

3. Claims 15, 21, 25-27 are allowed.
4. Applicant's arguments with respect to claims *supra* have been considered but are moot in view of the new ground(s) of rejection.
5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene L Kim whose telephone number is 703 308-1886. The examiner can normally be reached on Tuesday-Friday 8 a.m. to 6 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703 308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Eugene L Kim  
Primary Examiner  
Art Unit 3721